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Title: Further discussion on the resolution regarding reservation for socially and educationally backward classes moved by Shri E. Ahamad on 18th August, 2000. (Concluded and resolution withdrawn)

16.05 hrs.

MR DEPUTY-SPEAKER: Now, we shall take up Private Members" Business -- Reservation for socially and educationally Backward Classes. Shri E. Ahamed to continue.

Hon. Members, whatever time of the Private Members" Business has been taken by the Government Business, that much of time will be added to the Private Members" Business.

1606 hours

SHRI E. AHAMED (MANJERI): Mr. Deputy-Speaker, Sir, while moving my non-official Resolution on August 18, 2000, I had dealt at length the genesis of the Reservation in this country and the evolution of the present Reservation Policy. While, mentioning these facts last time, I had explicitly quoted the interpretation and also the observations with respect to the Article 16(4) A which was incorporated by the 77th Amendment. But stressing the need of the Reservation for the socially and educationally Backward Classes including the Muslims in accordance with proportion of their population notwithstanding anything contained in any judgment of any Court of law to the contrary including ceiling on percentage of reservation, I would like to bring to the notice of this august House the prenatal history of Article 16(4) which is the basis of the Reservation for different classes of people.

Sir, before I just go into it, I would like to quote Article 16(4). It says:

> "Nothing in this article shall prevent the State from making any provisions for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. "

Mr. Deputy-Speaker, Sir, as I mentioned, the pre-natal history of this article will definitely make the House to come to a conclusion that "the reservations to different communities are also to be granted."

I still feel that the pre-natal history of the present Article 16(4) is worth mentioning in this House. It was felt before the Fundamental Rights Sub-Committee. Clause (5) of the Fundamental Rights Sub-Committee Report providing for "equality of opportunity in matters of public employment" came up for consideration before the Advisory Committee under the chairmanship of no less a person than Sardar Vallabhbhai Patel between 17 and 19 April, 1947. When it came up for discussion, Clause (5) as recommended by the Fundamental Rights Sub-Committee was the most important clause, and it was given due consideration by the Committee. That Committee consisted of stalwarts like C. Rajagopalachari, K.M. Panikkar, Syama Prasad Mookerji, Frank Anthony K.M. Munshi and many such legal luminaries.

Shri C. Rajagopalachari suggested making the provision explicitly for the minorities instead of 'classes' as it is provided now. Shri Rajagopalachari told the Committee on a specific clarification about it as to whether it was the classes or minorities who were being given protection. Shri K.M. Panikkar, who was responsible for the initial changed words explained that besides recognising religious minorities there might be many classes amongst the Hindus not adequately represented. According to him, they had also to be given reservation.

In this connection Shri Shyama Prasad Mukherjee suggested the phrasing 'minorities and other classes' instead of simple 'classes'. That was the suggestion made by Shri Shyama Prasad Mukherjee. Again, Sardar Ujjal Singh, who was a Member of that Committee suggested 'minorities and backward classes' without any reference to adequate representation. Shri Frank Anthony said that it should be 'classes and minorities'. This was the discussion that took place in that meeting. Sardar Vallabhbhai Patel observed that 'classes' included 'minorities'. So, under article 16(4) of the Constitution wherever 'classes' has been mentioned, it includes 'minorities'. This is what I wanted to bring to the notice of this hon. House.

I also want to quote in this august House what is mentioned in *The Framing of India's Constitution* by Dr. B. Shiva Rao. The Advisory Committee was Chaired by Sardar Vallabhbhai Patel when the matter was taken up for discussion. The Advisory Committee met for the second day in the Council's Chamber of the Council House in New Delhi at 10 a.m. on April 22, 1947. Sardar Vallabhbhai Patel was in the Chair. When the discussion was initiated, there were a number of observations made by the hon. Members of the Committee like Sardar Vallabhbhai Patel, Shri Rajagopalachari and others. For the information of the House, I may be permitted to quote verbatim from the proceedings of that Council as reported or compiled by Dr. B. Shiv Rao in his book *The Framing of India's Constitution*. It reads thus:

"FRANK ANTHONY: I would like to suggest that the clause should be amended 'nothing herein contained shall prevent the State from making provision for reservation in favour of minorities or classes.

UJJAL SINGH: It should be 'classes' over 'minorities'.

FRANK ANTHONY: What is the objection to 'classes and minorities'? 'Classes' will refer to the Scheduled Castes.

C. RAJAGOPALACHARI: It is sufficiently described here − 'those who are inadequately represented'.

FRANK ANTHONY: Why should we fight shy of using a word which has the sanction of law and usage? We can make it more specific.

C. RAJAGOPALACHARI: Just as we do not say, 'citizens and persons', if one word is wider, we omit the smaller word.

FRANK ANTHONY: We can put it as 'classes including minorities.

CHAIRMAN (SARDAR VALLABHBHAI PATEL): 'Minority' is included in 'classes'.

FRANK ANTHONY: This is my amendment. I move in favour of 'classes and minorities'.

UJJAL SINGH: 'Minorities and backward classes'.

CHAIRMAN (SARDAR VALLABHBHAI PATEL): This is simple English. 'Class' includes 'minorities'. This is absolutely unnecessary. It is as clear as daylight."

"The Committee has come to the unanimous conclusion and we also feel classes include minorities. There is no need to suspect. The whole basis of the provision is minorities. You say the State will exclude minorities? "

This is what Sardar Vallabhbhai Patel asked the Committee when Article 16(4) was under discussion of the Advisory Committee. Sardar Vallabhbhai Patel had taken the stand that the classes would include minorities. He was in a very enraged mood. He said that there was no need to suspect and that the whole basis of the provision is minorities. Again I would like to quote:

"Frank Anthony: We are not suspecting the present leaders. We do not know who the future leaders would be.

Chairman: No leader would be so stupid as to interpret that classes do not include minorities. "

I am only bringing to the notice of the House, the observation made by no less a person than Sardar Vallabhbhai Patel. He said that classes would include minorities. This is, according to Sardar Vallabhbhai Patel who was the Chairman of the Advisory Committee which has finally presented it to the Drafting Committee. I am only quoting this for the purpose of this House. I would insist on that quote and continue:

"Frank Anthony : We are not suspecting the present leaders. We do not know who the future leaders would be.

Chairman : No leader would be so stupid as to interpret that classes do not include minorities.

Frank Anthony : We have used the words elsewhere.

Chairman : Anybody will say that "classes" is a wider term. It is better to use a wider word.

C. Rajagopalachari : I would appeal to him that according to the ordinary interpretation if you introduce the word minority, the question whether a class is a minority will become justiciable. Classes will be interpreted in the sense of minority. The use of the general term 'classes' is followed by the phrase 'not adequately represented' and the opinion of the State finally determines it. I think, this is the best way of solving it.

K.M. Munshi : In Section 153A, the term 'class of His Majesty's subjects' has been used. 'Classes' have been interpreted as minorities or religious communities also. Nobody has ever interpreted it as not meaning minorities. "

This is what Shri K.M. Munshi observed. Therefore, Article 16(4) is only with respect to the rights and privileges, and reservation for minorities, that is, treating Muslims as backward classes. In my Resolution also I said like that. I quote:

> "This House urges upon the Government to bring forward a suitable legislation to make provision for reservation in appointments and posts in services and for admission into educational institutions in favour of socially and educationally backward classes including Muslims â€¦."

'Social and educational backwardness' are important criteria to be determined for which on their under-representation or inadequate representation should also be taken into consideration. Therefore, if somebody says that Article 16(4) stands in the way of Constitution for providing reservation to Muslims, I would say that the pre-natal history of Article 16(4), the decisions and the views given expression to by our founding fathers of the Constitution are amply clear on that casual matter. There is nothing wrong in providing reservation to different communities and there would no unconstitutionality either.

Therefore, if somebody says that already there are backward classes and now, Muslims are also being included − Mandal Commission has included Muslims in backward class − then I would say that I do admit that in States like Kerala, the entire community like Muslim. Ezhavas has been taken, as backward classes.

Because they are socially and educationally backward and they are not adequately represented. As a community, they have the right to be given the reservation in the matter of appointment. As a matter of fact Mandal Commission also had mentioned about the percentage of reservation given to other backward classes. According to Chapter IX of Mandal Commission Report,

> "From the information supplied by the Central Government Ministries and Departments, it is seen that Other Backward Classes constitute 12.55 per cent of the total number of Government employees, whereas their aggregate population is 52 per cent. Their representation in Class-I post is only 4.69 per cent. That is less than one-tenth of their proportion to the country's total population."

When their aggregate percentage is 52 per cent, their representation is only 12.55 per cent according to the observation made by the Mandal Commission. The Mandal Commission has also mentioned about certain judgements. Ceiling OBC quota to 50% I would like to quote that also. According to last Chapter, para 12; 2.2,

> "The population of OBC, both Hindus and non-Hindus is around 52 per cent of the total population. Accordingly, 52 per cent of the posts should be reserved for them. But this provision may go against the law laid down in a number of Supreme Court judgements wherein it has been held that the total quantum of reservation under article 15 (4) and 16 (4) of the Constitution should be below fifty per cent. In view of this, the proposed reservation for the OBCs would have to be pegged at a figure which when added to 22.5 per cent of the Scheduled Castes and Scheduled Tribes, remain below fifty per cent. In view of this legal constraint, the Commission is obliged to recommend a reservation of 27 per cent even though their population is almost twice this figure."

When the population of the OBCs is growing, how can the Supreme Court put a ceiling on it? It was not the population of 1980 or 1990. In 2000 also their population, according to all these legal and other documents, is growing. While their population is increasing, how can the Supreme Court say that it shall not go beyond a limit? The court can not put a cap on it. This is not correct. When there are more backward classes, you must reserve more seats. If it is less, then less number of seats should be provided. That is why in my Resolution I have mentioned,

> "â€¦. Notwithstanding anything contained in any judgement of any court of law of the country including ceiling on percentage of reservation â€¦. "

It is imperative in democratic country where people of different religions and different classes, like minorities and backward classes, are living should be given proper representation in administration. Unless the Government makes such an effort, it is a failure on their part to discharge the democratic, constitutional and other moral duties.

In this connection, I would like to say that Muslims should also be given reservation. What is the representation of Muslims in this country? I would like to bring to the notice of the House the facts already made known to this country by various sources.

Representation of Muslims in administration, Government services, may I say is abysmally poor. In this connection, I would like to bring to the notice of the House the findings of the National Sample Survey conducted in 1998. Even though the Muslim population is more than 12 per cent of the total population, the representation of Muslims in IAS is only 2.86 per cent. The largest minority and the second largest majority population in this country the Muslims have only 2.86 per cent representation in IAS. In IPS, their representation is 2 per cent....(*Interruptions*)

डॉ. रघुवंश प्रसाद सिंह : आप अपने रैजोल्यूशन पर कितनी देर बोलेंगे?

SHRI E. AHAMED : I am the mover of this Resolution. Moreover, I am speaking for the hapless community. For Class-I posts, the representation for Muslims is 3.3 per cent. In the nationalised banks, the Muslim employees are only 2.18 per cent. In total, the Muslim engineers are 2 per cent and doctors are 2.5 per cent. This is some indication to show how Muslims are grassly under-represented in the Government services.

I would like to bring to the notice of the House some performance indicators. According to the social groups, compiled by Prof. Dalip Swamy primary school children population are 16.81 per cent as compared to 63.19 per cent of the total population. Involvement of the Muslims in primary classes is 12.39 per cent. Survivors in Class-V is 8.05 per cent. Class-X school going population is 18.25 per cent. The enrolment of Muslim children in Class-X is 16 per cent and the success rate is only 4 per cent. Similarly, at the graduate level the enrolment is 6.21 per cent and the success rate is 3.20 per cent. This is the present state of affairs of the Muslim community in this country. Post-graduate enrolment is 9.11 per cent and the success rate at this level is 6.98 per cent. Placement in jobs of the Muslim population through employment exchanges is 2 per cent; in private sector companies it is 8.16 per cent out of which executive class is 1.5 per cent, clerical class is 8.28 per cent and workers is 7 per cent. This is the present situation of the minority Muslim community. The percentages with regard to the State Government officials are also like that. As per the income level, the poorest is 10.90 per cent and poor is 41.40 per cent whereas in other communities, it is 28.43 per cent. Muslim population above poverty line is 26.6 per cent. The richest section of the Muslim population is 3.87 per cent.

Therefore, this is not community of rich people. It is a community of the poor people. The poorest of the poor is in the Muslim community. They have been denied admission in education institutions. They have been denied representation in the Government services and other services. In this connection I would also like to bring to the notice of the House as to what happened in 1997.

In the year 1997, there were 449 Directors in the public sector undertakings, out of which, there were only 21 Muslims. It comes to 4.2 per cent. Out of 13,900 senior officers in public sector, only 321 are Muslims. It constitutes 2.32 per cent among the judicial officers, their percentage is less than seven. In the Reserve Bank of India, which is the highest body of this country, there is not even a single member in the Board of Directors. Only two Executive Directors are there out of 60. This is the position. In nationalised banks, there are 2.18 per cent Muslims. There is no Muslim among five Board members of LIC. It is the biggest financial institution of the country. Hundreds and lakhs of rupees have been given as loan by this institution but this community has been denied even the directorship of this institution. There is not a single Director from this community. Their number is less than 3 per cent in Police and para-military forces. As regards poverty alleviation programmes of banks, they constitute 9.41 per cent of the people who have taken loan. The amount of loan taken by them is only 3.73 per cent. I am bringing all these matters only to make the Government understand that it is only a legitimate demand of the Muslims and other backward classes to have special reservation. If that reservation is not given, they will never be able to get representation in the Government service.

Sir, everybody has supported it. For example, I will tell you the view taken by the former Prime Minister.

MR. DEPUTY-SPEAKER: Shri Ahamed, you had taken 26 minutes earlier and now you are speaking for the last 30 minutes. There are many other Members who want to participate and the Minister would also reply.

SHRI E. AHAMED: Sir, I will conclude in five minutes.

Sir, on the occasion of National Convention on Reservation for the Muslims held in October 1994, Shri V.P. Singh, who was the champion of Mandal Commission Report said:

> "The question now only arises whether the amount of reservation for the Muslims should be separately quantified; and second whether all the Muslims should be entitled to reservation.
>
> As far the first proposal, the answer is that if the actual working of the Mandal Commission Report does not ensure adequate representation, then there is a strong case for providing separate reservation for the

Muslims. Objections on the ground that then each social section will have to be provided separate quota does not hold because Muslims are large social section comprising of more than 15 crore people. The most backward classes among the backward classes have been given separate representation in certain States on the ground that they are sizeable group requiring separate safeguard.

As far the second proposal being the rate of drop out of the Muslims in educational institutions, a fresh determination is necessary than what has been done hitherto. I am sure if this is done Muslim brothers would come under the socially and educationally backward classes."

This is the view taken by Shri V.P. Singh while arguing for the reservation of the Muslims in this country.

Again Sir, once late Rajiv Gandhi, who was the Leader of Opposition of this august House made an observation in this regard. I would just like to bring the extract from the speech made by him on 6th September, 1990 in this House. He said:

"I should go not only to such under-privileged groups and many others like them, but the people from all religions who are under-privileged and this is where I have a great difference with what the Government is bringing in. We are looking almost entirely at castes. Not only that, they have not included very large sections of the minority who should be included. If you look at the Muslims, the vast majority of the Muslim community in India is backward educationally, socially, economically, everywhere. It is true for almost every religion as groups who are socially and educationally backward. Why should they not be included? I would request *Raja Saheb* to expand the definition of castes first by including socially and educationally backward classes or the backward groups, whatever you want to call it, from other castes, from within the Hindu religion and then expanding it to socially and economically backward groups from other religions namely the Muslims, Christians, Sikhs, Buddhists, Parsis and others."

This is the view given expression to by Shri Rajiv Gandhi, the then Leader of the Opposition. The present Government which honour the wordings of great leaders like Sardar Vallabhbhai Patel should also follow it in practice. The Opposition which is even now following the ideals of Shri Rajiv Gandhi should also put it to practice.

I would also like to bring in two very prominent personalities who are social scientists in this country and apprise the House of what they have observed about reservation for Muslims. The first one is Prof. A.M. Khusro who was the Chairman of the Finance Commission till recently and who was also the Vice-Chancellor of the Aligarh Muslim University. While addressing the Second National Convention for Reservation of Muslims he said:

"Muslims cannot clear the backlog and backwardness unless given reservation. Though efficiency is a problem area in reservation, the community particularly needs the crutches to come up in the field of development."

Another social scientist of this country who also spoke in a convention was Prof. Rajni Kothari. He said:

"Muslims being an integral part of India"s composite culture must be given equal representation at every level."

Therefore, public opinion is also changing. It is a fact that the Muslims in this country are educationally backward, socially backward and also very much poor in their representation in the Government, public undertakings and other fields. Their representation in services is abysmally poor. It is the duty of the Government to come forward to accept this fundamental truth and to provide reservation for educationally and social backward communities.

I am sure, my friends in BJP would agree to it because they consider Muslims as blood of their blood and flesh of their flesh. So, when the blood of their blood and flesh of their flesh is suffering in such humiliation, in such backwardness, in such deprivation, I am sure, Shrimati Maneka Gandhi will come forward and accept this proposition. This is a legitimate case. This is a case of constitutional reality in this country to which nobody can close one"s eyes.

I take only one minute to give percentage of different population groups in this country. The Scheduled Castes are 15.5 per cent; and the Scheduled Tribes are 7.5 per cent. So, together they make it 22.26 per cent of the total Indian population. Whereas the Muslims are 11.19 per cent, the Christians are 2.16 per cent, the Sikhs are 1.67 per

cent, the Buddhists are 0.67 per cent and the Jains are 0.47 per cent. Totally all these groups of non-Hindu religious communities form only 16.69 per cent.

When this 16.16 per cent of people are denied their legitimate right to represent themselves in the Government as public servants, how can there be equality before law and equal treatment for all segments of people? Therefore, it is the principle for democracy of this country, a country which is having unity in diversity, which is multi-ethnic, multi-lingual and multi-religious. Therefore, I urge upon this Government and also the hon. Minister to accept this Resolution and give a good message to the entire people of this country. Words will not do anything. Only deeds will have some effect.

डा.रघुवंश प्रसाद सिंह : उपाध्यक्ष महोदय, माननीय पुराने विद्वान सदस्य श्री ई.अहमद ने जो गैर सरकारी संकल्प, मुसलमानों को आरक्षण देने के संबंध में रखा है, यह बहुत सैंसिटिव इश्यु है। यह आरक्षण विरोधी सरकार है। इनके सामने इतनी किताबें दिखा रहे थे। हमारी समझ में नहीं आता कि जो आरक्षण है उसे ये लोग खत्म करने में लगे हुए हैं, परंतु और आरक्षण को कह रहे हैं। माननीय सदस्य ने जो प्रस्ताव किया है, हम उसका समर्थन करते हैं। उन्होंने संविधान, पुराना इतिहास, सारे कागजी सबूत, सारे अंक, प्रतिशत, सामाजिक स्थिति, आर्थिक स्थिति और शैक्षणिक स्थिति आदि को दिखाया और पूरा विचार करके उन्होंने इसे रखा है। उनका मन नहीं था कि कोई इसका समर्थन करे, वह दो-तीन घंटे और बोलते, अगर हम नहीं टोकते। लेकिन उन्होंने इसे बड़े ही तर्कसंगत तरीके से यहां रखा है। अपने देश में जो मुस्लिम आबादी है, जो सोशियली बैकवर्ड है, जो संविधान बोलता है एजूकेशनली, इकोनोमिकली बैकवर्ड और आरक्षण का प्रथम सिद्धांत है कि जिनका सरकारी सेवाओं में एडीक्वेट रिप्रेजेन्टेशन नहीं है, उनका रिप्रेजेन्टेशन होना चाहिए। इन्होंने साबित किया है कि उनका एडीक्वेट रिप्रेजेन्टेशन नहीं है, इसलिए उन्हें आरक्षण न मिलने का कोई औचित्य नहीं है। लेकिन हमें लगता है कि सरकार की तरफ से जवाब आयेगा चूंकि संविधान में धर्म के आधार पर आरक्षण नहीं लिखा है, इसलिए हमें ऐसा करने में कठिनाई हो रही है। इसलिए यह गैर सरकारी संकल्प लाये हैं। इसके मुताबिक इसके लिए संविधान संशोधन की आवश्यकता होगी। इसलिए इसमें संविधान संशोधन कीजिए और सोशियली, एजूकेशनली और इकोनोमिकली सभी दृटिकोण से जो भी समूह पिछड़े हुए हैं, दबे हुए हैं और जिनका सरकारी सेवाओं में एडीक्वेट रिप्रेजेन्टेशन नहीं है, कहीं-कहीं इन्होंने शून्य कहा है, इसलिए इनका आरक्षण होना चाहिए। इसलिए हम इसका पूरा समर्थन करते हैं।

उपाध्यक्ष महोदय, अभी जो प्रावधान है उसमें इनका गैर सरकारी संकल्प पारित हो जाए, लेकिन ये लोग इसे पारित नहीं होने देंगे। हम समझते हैं कि इन लोगों ने विचार किया हुआ है कि ये किसी हालत में पारित न होने दें। लेकिन इन्हें इसका बुरा परिणाम भोगना पड़ेगा। दूसरी ओर ये इस पर संविधान संशोधन लाये और संविधान संशोधन् लाकर इस संवेदनशील मामले का निपादन करें। अभी संविधान में जो प्रावधान है, उसमें सोशियली, एजूकेशनली बैकवर्ड लोग और आम तौर से मुसलमानों में, इस्लाम के सिद्धांत के हिसाब से जाति व्यवस्था नहीं है। लेकिन हिदुंस्तान में हम देखते हैं कि मुसलमानों में भी जाति व्यवस्था है। लेकिन उसमें जो वंचित वर्ग हैं उन्हें शेड्यूल्ड कास्ट्स की श्रेणी में रखा जाना चाहिए था, लेकिन उन्हें इस श्रेणी में नहीं रखा गया। जैसे नट है, नट हिंदू भी होता है और मुसलमान भी होता है। लेकिन उसकी क्या स्थिति है, वह सभी तरह से दबा हुआ है। लेकिन शेड्यूल्ड कास्ट्स में उसका नाम नहीं है। जब संविधान संशोधन होगा, तब उन जातियों को जो हरेक दृटिकोण से पिछड़े हुए हैं, जिनकी समाज अध्ययन संस्थान ने अनुशंसा की है और राज्य सरकारों ने भी अनुशंसा की है, उन जातियों को शेड्यूल्ड कास्ट्स में रखना चाहिए। जो मुस्लिम कम्युनिटी में दबे हुए लोग हैं उनमें पचासों जातियां हैं जैसे डफाली, कलाल और अंसारी आदि हैं, इन सब जातियों को शेड्यूल्ड कास्टस में रखने की जरूरत थी।

लेकिन नहीं रखा गया है। उसमें संविधान संशोधन की आवश्यकता होगी, जो ये नहीं ला रहे हैं।

फिर हिन्दुओं में भी जो नाई जाति है, मल्लाह जाति है, उनके लिए राज्य सरकारों ने अनुशंसा की है कि इनको भी शैड्यूल्ड कास्ट में रखना चाहिए। सरकार को इसमें क्या कठिनाई है? सरकार क्यों नहीं सुधार करती? जब नियम बन गया कि सामाजिक व्यवस्था में जांच पड़ताल करके देखा जाएगा कि किसको किस श्रेणी में रखा जाए। सैनी लोग जो मछुआरे का कारोबार देश में बड़ी संख्या में करते हैं, इसी प्रकार नमक बनाने का काम ननिया जाति के लोग करते हैं, उनकी बड़ी संख्या बिहार, उत्तर प्रदेश और पश्चिम बंगाल में है। ननिया जाति वैस्ट बंगाल में शैड्यूल्ड कास्ट में है लेकिन बिहार और उत्तर प्रदेश में पिछड़ी जाति में है। इनके विभाग में यह सब लंबित हैं और इतने दिनों से हम सवाल कर रहे हैं। जवाब आता है कि संविधान संशोधन की जरूरत होगी और सुधार होगा लेकिन नहीं हो रहा है। इसलिए हो सकता है कि आरक्षण इश्यू पर आंदोलन होगा और आंदोलन होकर जब सरकार डगमगाने लगेगी तो लाचारी में ये करेंगे। क्यों नहीं पहले ही सामाजिक न्याय के सिद्धांत पर जो संविधान के 15 (4) और 16(4) अनुच्छेद में कहा गया है, उसके मुताबिक करें और माननीय सदस्य ई. अहमद साहब ने जो कहा है, उसको पारित करें और तदनुसार संविधान में संशोधन करें जिससे जो माइनॉरिटी कम्युनिटी है, चाहे इस्लाम धर्म को मानने वाले मुस्लिम कम्युनिटी के लोग हैं अथवा बुद्धिस्ट, जैन या जो भी सोशली और ऐजुकेशनल बैकवर्ड हैं, क्रिश्चियन्स में भी बहुत ज्यादा दबे हुए लोग हैं, उन सभी को संविधान में संशोधन करके प्रावधान किया जाना चाहिए जिससे उनको आरक्षण मिले। इसलिए मेरा निवेदन है कि जिनका ऐप्रोप्रियेट रिप्रेजेन्टेशन नहीं है, उनके लिए प्रावधान करना चाहिए और संविधान संशोधन होना चाहिए। हालांकि ये लोग आरक्षण विरोधी हैं, संविधान की समीक्षा के लिए इन्होंने आयोग बैठाया है और देश भर में गरम अफवाह है कि यह सरकार चाहती है कि जो आरक्षण की प्रदत्त सुविधा है उसको खत्म किया जाए। लेकिन इनको हम खत्म नहीं करने देंगे चाहे जितनी कोशिश और हेराफेरी करना चाहें और फिर जो अभी तक अहमद जी ने अच्छा भाण दिया और कोर्ट का फैसला भी सुनाया और अपने पक्ष का समर्थन किया है, हम भी इनके गैर सरकारी संकल्प का समर्थन करते हैं और प्रार्थना करते हैं कि इसको पारित किया जाए और तदनुसार संविधान में संशोधन करके संशोधन किया जाए, यही हमारा कहना है।

श्री बालकृण चौहान (घोसी) : माननीय उपाध्यक्ष जी, जो गैर सरकारी संकल्प ई.अहमद जी ने सामाजिक और शैक्षणिक तौर पर पिछड़े लोगों के आरक्षण के लिए पेश किया है, यह बहुत ही महत्वपूर्ण है। आज़ादी के 53 साल बीत जाने के बाद भी पिछड़े वर्गों की जो वास्तविक अवधारणा इस देश के संविधान में थी, जितने भी दबे, कुचले और पिछड़े लोग हैं, उनको सामाजिक, शैक्षणिक स्तर पर समान स्तर पर लाने के लिए अनुच्छे 340 में महामहिम राट्रपति महोदय को यह अधिकार दिया गया है कि समय-समय पर पिछड़े वर्गों की पहचान करके उनका स्तर बढ़ाने के लिए उनको विशेा अवसर प्रदान किया जाए जिसके अंतर्गत सर्वप्रथम 1953 में काका कालेलकर आयोग का गठन हुआ।

उपाध्यक्ष महोदय, उस आयोग की रिपोर्ट के आधार पर गृह मंत्रालय ने पूरे देश की राज्य सरकारों को यह निर्देश दिया कि सभी राज्य सरकारें अपने प्रदेश में पिछड़े वर्गों की पहचान कर के नौकरियों और शौक्षिक सुविधा प्रदान करने के लिए आरक्षण का प्रावधान करें। उसके पश्चात् तमाम प्रदेशों में इस हेतु आयोगों की स्थापना हुई। आन्ध्रप्रदेश में 1968 में मनोहर प्रसाद आयोग, बिहार में 1971 में मुंगेरी लाल आयोग और कर्नाटक में हवानूर आयोग 1972 में बना। इस तरह से लगभग पूरे देश में आयोग बने। महाराट्र और केरल में भी आयोग बनाए गए। सभी आयोगों ने स्पट रूप से यह चिन्हित किया कि पिछड़ा वर्ग में अति पिछड़ा वर्ग भी है, उसमें कुछ वर्ग समुन्नत हैं और कुछ अतिपिछड़े हैं। इसलिए अत्यधिक पिछड़े वर्गों की पहचान की गई।

उपाध्यक्ष महोदय, इसको माननीय सुप्रीम कोर्ट ने स्वीकार किया और मंडल कमीशन 1978 में बनाया गया। उसमें अति पिछड़ा वर्गों की घोर उपेक्षा की गई है जबकि एल.के. नाईक ने बार-बार इस बात को उठाया कि पिछड़ा वर्गों में कुछ समुन्नत जाति के लोग हैं जो पूरे अतिपिछड़ा वर्गों का हिस्सा खा डालते हैं। इसलिए उन वर्गों को अलग करना चाहिए। सारे प्रदेश में अति पिछड़ा वर्गों का कोटा दिए जाने की सिफारिश की गई, लेकिन उत्तर प्रदेश में जो छेदी लाल साथी आयोग बना हुआ था, उसने स्पट अनुशंसा की थी कि अतिपिछड़े वर्गों को चिन्हित किया जाए, उन्हें 27 में से 15 का कोटा दिया जाए परन्तु यह काम नहीं हुआ। इसलिए जो 52 प्रतिशत की आबादी है उसमें 10 प्रतिशत लोग लाभान्वित हो रहे हैं। इसीलिए माननीय सर्वोच्च न्यायालय ने अपने पिछले एक आदेश इंदिरा साहनी बनाम भारत सरकार में

कहा था कि क्रीमी लेयर, समुन्नत वर्गों की पहचान होनी चाहिए। एल.के.नाईक ने मंडल कमीशन से स्पट कहा था कि 27 प्रतिशत पिछड़े वर्गों को आरक्षण में से 15 प्रतिशत तक अति पिछड़े वर्गों का कोटा तय करना चाहिए। पिछड़े वर्गों की कुल आबादी 52 प्रतिशत है और उसमें से 42 प्रतिशत अतिपिछड़ा वर्ग होता है। पिछडों की पूरी आबादी में यदि देखा जाए तो 82 से 85 प्रतिशत लोग अत्यन्त पिछड़े हैं जिन्हें वास्तव में सहायता की आवश्यकता है, लेकिन 53 वों के बाद भी आज तक 42 प्रतिशत जो अतिपिछड़े वर्ग की जातियां हैं, आज तक आबादी के हिसाब से यदि देखें तो एक अरब में से 42 करोड़ की आबादी में देश में कोइरी, कोहार, लोहार, चौहान,राजभर मल्लाह आदि में आप हमें बताएं, यह सरकार बताए कि कितने आई.ए.एस., आई.पी.एस. और पी.सी.एस. अधिकारी बने हैं और भारत सरकार या प्रदेश सरकार की नौकरियों में हैं। 42 प्रतिशत जो अतिपिछड़ा वर्ग है। इसको देखते हुए यह कैसे माना जाए कि अतिपिछड़े वर्गों को उनका हिस्सा मिल रहा है ?

उपाध्यक्ष महोदय, मेरा सामाजिक न्याय और अधिकारिता मंत्री महोदय और केन्द्र सरकार से निवेदन तथा प्रार्थना है कि अतिपिछड़े वर्गों के साथ न्याय करने के लिए संविधान के अनुच्छेद 16(4) में जहां अनुसूचित जाति एवं अनुसूचित जनजातियों के आरक्षण के बारे में लिखा गया है वहां अन्य पिछड़ा वर्ग के बारे में भी लिखा हुआ है। डॉ. भीमराव अम्बेडकर जी के कारण अनुसूचित जाति एवं अनुसूचित जनजातियों को उनका हिस्सा मिला। आप कल्पना कीजिए कि यदि वे नहीं होते, तो दलितों का हिस्सा समुन्नत वर्गों के लोग खा जाते। इसीलिए सर्वोच्च न्यायालय के निर्णय के अनुसार पिछड़े वर्गों और ओ.बी.सी. में भी अतिपिछड़े वर्ग को अलग किए जाने का निर्देश दिया गया। इस बात को सुप्रीम कोर्ट ने भी माना कि हां ओ.बी.सी. का आगे और वर्गीकरण किया जा सकता है, उपविभाजन किया जा सकता है। हालांकि बालाजी बनाम मैसूर राज्य के केस में यह माना है कि 50 प्रतिशत से अधिक आरक्षण नहीं होना चाहिए, लेकिन 27 प्रतिशत जो कुल आरक्षण मिल रहा है उसमें से मेरा निवेदन है कि 15 प्रतिशत आरक्षण राज्यों में अतिपिछड़ा वर्गों को देना निर्देशित करें औ केन्द्रीय नौकरियों में उतना ही प्रतिशत दिया जाना चाहिए।

इन्हीं शब्दों के साथ मैं सरकार से पुनः निवेदन करूंगा कि अति पिछडे वर्गों को अलग करके संविधान में उनके संबंध में जो व्यवस्था की गई है, उनको लागू करें।

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Thank you, Mr. Deputy-Speaker, Sir. When I stand here to speak about the Resolution that has been tabled by Shri Ahamed, I am reminded of a cartographer's ambitions. One cartographer was thinking that he would prepare a big map - as big as the earth itself - so that it would cover all the areas, all the mountains and all the topography. But he had two difficulties. The difficulty was that he had to spread it on the entire earth. Then, the people who are to see have to stand on that particular map itself. It is an impossible proposition of the cartographer.

Now, I feel that Shri Ahamed has brought forward a cartographer's ambition to this House. He has copiously quoted from the Constitution of India, from the connotations and intonations and their different definitions written by erudite persons, as if he was quoting from the scriptures. May I tell that whatever was the discussion, it was summarised in the Constitution itself? Article 16(4) of the Constitution has very elaborately discussed about the people who are to be kept in the reserved categories. I would submit that while thinking of article 16(4), due care has to be taken of the governing article 366 wherein it has been indicated in a proper manner as to what type of people are to be given the reservation and other backward criteria.

The Indian society has suffered for centuries because of the caste system. A complex situation had come over this country as a result of which the framers of the Constitution and statesmen thought that it would be proper to give some sort of facilities to the socially marginalised people - who have not come up in life, etc. As a result of this, the reservations were made. But it has to be kept in mind whether there should be a fresh look on the reservation criteria. We have to think of the social status and other factors that govern us today.

There has been tremendous social mobility and the impact of democracy is quite evident in the day-to-day life of an ordinary citizen of India.

1659 hours (Dr. Raghuvansh Prasad Singh *in the Chair*)

When it is seen that democracy has given a fillip to the people at large, may I ask those people, who feel that they have been deprived or marginalised, why should they not take steps to come up to the expectations of the society itself?

I would request them to think of education of the backward classes and the Muslims. I would not go into the details of the Mandal Commission because, personally, I feel that it has been a retrograde step. But so far as education is concerned, it is available to all. The Muslim community, as such, has not taken the opportunity in hand. The '*Madarsa'* culture, proliferation beyond redemption, both economically and socially, and lack of education have created a problem for the Muslim community in India.

17.00 hrs.

Even now, there are certain communities among the Muslims, where there is a rudimentary caste system as it is available in some of the Christian societies also. In my constituency of Berhampur in Orissa, there are about a lakh of Christians, of whom about 30,000 to 40,000 come from the Scheduled Caste variety and the rest come from the tribals. Even today, although the Christian religion professes that there is no discrimination so far as caste is concerned, but in my constituency there are two types of churches, one for the Scheduled Caste Christians and the other for the tribal Christians. I would request the hon. Chairman, Sir, to go to the 1866 famine, which had swept over Orissa, and about three lakh to four lakh people died in those days. Those of the people who could not get food had to go to the community kitchen which were organised by the British. The people who took food in the

community kitchen were called `*Chatrakhaya'* - `*Chatra'* means `community kitchen' - and they were not taken back into the Hindu society. That was the bane of our Hindu social structure. As a result of which, all those people who came from different castes and took food of the community kitchen became Christians. Even till today, those of the people who became Christians about 130 to 140 years back would not mingle with those of the people who have become Christians from the Scheduled Caste groups. So, these are the complex situations which are prevailing in our society.

Among the Muslims, Sir, I know of a particular family which was staying in a *`shasan'. `Shasan'* is in *Agrahar* given to the Brahmins by the King. There are about 150 houses in that village, of whom one had become a Muslim householder but he would not mingle with the people of the Muslim community who were staying in other areas. Take for example, as we know from Kaka Kelkar's Report on reservation for Scheduled Castes and Scheduled Tribes, there are till now four categories of Muslims who would like to be called as such because of the pride and the privileges that they had enjoyed earlier or they would like to enjoy in the society where they are staying. For 500 years, the Muslims had ruled this country. As a ruling class, they had the best of life, and having the best of life it was but natural that they should have provided for themselves in a proper manner. At this hour, to think of giving some reservation to them is, I think, not proper because any preferential treatment at this juncture will give way to lots of difficulties and it may create problems. Any over-zealousness may create a lot of problems for the society, which is going in a different manner now. We have given reservation for the Scheduled Castes, for the Scheduled Tribes and for the backwards and other reservation will lead tocollapse.

Shri E.Ahamed had harped his point only on giving representation to the Muslims. He did not say much about other socially or educationally backward people. OBCs have been provided with these things now.

Sir, do I conclude now? Sir, do you want that I should conclude now? ...(*Interruptions*) I see, you are nodding in that fashion. So, in deference to your wishes, I would immediately conclude because, I think, the Chair does not have the patience to hear me. In a way I should say that instead of asking for ...(*Interruptions*)

सभापति महोदय : ऐसा नहीं है। इसके बजाए बाद वाले प्वाइंट पर बोलिए।

SHRI E. AHAMED : Sir, kindly allow him to speak. He is making good points and I have to oppose him at the end. ...(*Interruptions*)

SHRI ANADI SAHU : Thank you. I hope, I am neither your adversary nor your friend.

So, what I would like to say here is that when you are thinking of any reservation now, at the present jucture, it will create an imbalance in the society.

As you have seen, over the last eight to ten years, tension has been brewing in the society because certain amount of reservation has been given over the 50 to 53 years a crusty layer has come up which in a euphemistic way, we call it a `creamy layer'.

Take the case of the creamy layer people, the first generation people were good; nobody had anything to say against them. The second generation people were tolerated. Now, for the third generation there is intolerance. The creamy layer would not go to the other people who are deprived. In my State, there is the washermen's community, the *Dhobhis.* They are in the creamy layer and they have taken the posts in all offices in the reservation category.

Take the case of the Scheduled Tribes. There are several people. Shri Gamang who was the Chief Minister of Orissa for some time and a Member of Parliament. He comes from a particular community of tribals. They have taken the best of that opportunity which was offered by this country. As a result of which we have created the creamy layers to the detriment of other castes or other communities who could not come up.

Now, when we are thinking of reservation for any people, we must think of removing the creamy later in a systematic manner, rather by tapering the creamy layer in another 50 years of time. As I have said earlier, when we give reservation, the second and the third generation could be tolerated, but the fourth and the fifth generation of that creamy layer should not get any sort of reservation so as to taper down in another 50 years of time and to bring about a tolerance among the people. If at all we think of any sort of consideration on reservation, it should be on these lines. It can be taken up later, not now, because all the wrongs that we have created earlier have to be tolerated now, but the wrongs cannot be righted by giving lots of reservation to all people.

Jocularly I was telling some people that in case you want any reservation to be given, give only two per cent to the *Brahmins* and *Kshatriyas* and the others should be a general category. Well, it could be thought of in that way. That is in a jocular vein only I said. But what I want to say now is that any sort of reservation on religious grounds will open up the Pandora's Box. We are treading on a very thin line of patience and that thin line should not be disturbed in any manner.

As I said earlier, the main criteria or aim should be to dismantle the caste system and the religious thinking or religious considerations. I am an atheist. So, I do not mind saying that if we can do away with religion, in a proper manner, I think India would be a better country, it can be better governed and democracy can prosper in a better manner.

There was a talk that Dalit Muslims should be given reservations. This is something new. In the Muslim community, thanks to Prophet Mohammad, a socialistic pattern was decided and a revolutionary approach was given to the working pattern of the Arab clans. I think, as far as my knowledge goes, there were about 340 gods or clans which followed different religious practices. The prophet combined all of them, brought them under one umbrella and gave a revolutionary approach even to women to have some sort of status in the society. They did not think of any caste system in the Muslim community, as such, but now there is a talk that Dalit Muslims should be given some reservation. I think in Bihar there has been some reservation in that category and in Kerala also there has been some reservation in that category.

What I want to say is Kerala has given one hundred per cent literacy to its people and the people irrespective of the caste, irrespective of religion there people get job opportunities wherever they go.

I would request the hon. Shri E. Ahamed to take the example of Kerala. When you are thinking of IAS or IPS − I was a member of the Indian Police service for some time − or the Banking Service, what is necessary is that they should have liberal general education, not the *Madarsa* type of education.

That type of education which makes them clerics, which makes them religious leaders, will not be able to make them successful in life where competitive nature of work requires that they should have general education, a broad view of the society and of the world at large. If education is imparted properly to those persons, then it would not be possible for them to compete in an egalitarian society and to come up along with the best in this country.

Sir, opportunities have been given by the State, by the country, by the Constitution, by different laws that have been framed from time to time. But the opportunities have to be taken by the people who are the leaders. I am not casting any aspersion on the Muslim community. But it is rather unfortunate that there is no leader of prominence in India among the Muslim community who can come up and give a sort of leadership to the Muslim community and say that `you come up in a different manner, compete with the best in the country and take the best of it, the cream of the life that is available in this society'.

Sir, I would like to conclude my speech by coming to article 16 (4) and the Supreme Court judgement, which Shri E. Ahamed has quoted in a partial manner. I would like to say that the Supreme Court has very clearly stated that proportional representation is not proper for India. I quote:

> "Adequate representation cannot be read as proportionate representation. It is not possible to accept the theory of proportionate representation through the proportion of populationâ€¦"

There are many other things, which I am not quoting.

So, with these few words, I oppose this Resolution and I would request Shri E. Ahamed to withdraw the Resolution.

श्री गिरधारी लाल भार्गव (जयपुर) : सभापति महोदय, ई. एहमद साहब एक विचित्र प्रस्ताव देश के सामने लाए हैं। 1947 में देश आजाद हुआ। आज इतने समय के बाद भी वे सदन में आरक्षण की बात लेकर आए हैं। मैं उनसे निवेदन कर रहा हूं, मैं कहीं मुसलमानों का विरोधी नहीं हूं। मैं मुसलमानों के मुशायरों, कव्वाली के कार्यक्रमों और शादी-ब्याहों में जयपुर में जाता रहता हूं। वे लोग भी मेरी कद्र करते हैं और मैं भी उनकी कद्र करता हूं, करता रहूंगा। मुस्लिम जाति का आरक्षण हो जाए तो यह थोड़ा सा अटपटा लगने वाली बात है। जो भी व्यक्ति क्वालिफाइड हैं, वे सामने आ रहे हैं।

सभापति महोदय, आप बड़े विद्वान हैं, आप भी जानते हैं कि भारत में दो मुसलमान राट्रपति हुए हैं। भारत के शिक्षा मंत्री मौलाना अबुल कलाम आजाद भी रह चुके हैं। जिनका चित्र संसद के केन्द्रीय कक्ष में लगा हुआ और उनको हम बहुत श्रद्धा से निहारते हैं। लोक सभा में भी अध्यक्ष का, उपाध्यक्ष का पद हो, चाहे राज्य सभा में हो, हमने उनको सम्मान दिया है और देते रहेंगे। यदि धर्म के आधार पर, जाति के आधार पर आरक्षण मांगेगे तो फिर मैं भी कह सकता हूं कि मैं अकेला भार्गव लोक सभा में चुन कर आया हूं इसलिए मुझे भी आरक्षण दिया जाए, बोलने का आरक्षण दिया जाए, मंत्रिमंडल में दिया जाए। इसलिए मेरी ई. अहमद साहब से हाथ जोड़ कर प्रार्थना है कि इस प्रकार की मांग, 1947 में जब देश आजाद हुआ, जिसको भारतर्वा कहते हैं।

भारतर्वा में इस प्रकार की मांग रखना उनके लिए उचित नहीं है वर्ना सभी जातियां यहां धर्म के आधार पर रिजर्वेशन मांगेगी। जाति कर्म के आधार पर बनी है। कई बार खाती लोग जिनको हम बढ़ई कहते हैं, वे भी अपने आप को ब्राहमण कहते हैं। खाती जाति भी अपने आपको शर्मा कहती है। हमारे पूर्वजों ने चार वर्ण रखे थे- ब्राहमण, क्षत्रिय, वैश्य और शूद्र ये चार वर्ण हैं ताकि ये चारों वर्ण आपस में झगड़ा न करे और एक होकर रहें।

दीपावली का त्यौहार बड़े उत्साह से सेठ लोग मनाते हैं। रात को बारह बजे बिल्ली के लिए कटोरा रखते हैं कि वह दूध पी जाये और यदि कमरे में आ जाती है तो ऐसा मानते हैं कि लक्ष्मी घर में आ गई, वे चद्दर बदलेंगे और बहीखाते बदलेंगे। इस त्यौहार की रचना वैश्यों के लिए की गई। अस्त्र-शस्त्र पहनकर रहें, अस्त्रों में धार लगी रहे, इस उद्देश्य के लिए दशहरे के त्यौहार की रचना की गई तथा ब्राहमण के लिए कलेवा होता था। पहले कलनी चलती थी, वह अब बंद हो गई है। अब तो यह हो

गया है कि बहन जितनी बड़ी राखी भाई के बांधेगी, चाहे वह उसके पेट तक आ जाये, वही प्यार माना जाता है। तो रक्षा-बंधन का त्यौहार ब्राहमण के लिए रखा गया। ये चारों वर्ण आपस में न भिड़ें, एक होकर रहे, इसके लिए शूद्रों के लिए होली के त्यौहार की रचना की गई। होली के त्यौहार पर वे कहेंगे कि आइए जजमान, नीचे आएं, गुलाल लगवाइए। तब से ये चारों वर्ण हमारे देश में चल रहे हैं।

इसलिए मैं ई.अहमद साहब से निवेदन करूंगा कि उन्होंने जो तर्क दिये हैं, उन्होंने सरदार पटेल साहब, राजगोपालाचारी जी तथा श्यामा प्रसाद जी का नाम भी दिया है। हम लोगों को यह चाहिए कि हम बच्चों को पढ़ने के लिए भेजें और बच्चे पढ़ेंगे-लिखेंगे और उनकी आर्थिक स्थिति ठीक होगी तो वे चुनाव लड़कर अपने आपसे यहां आ सकते हैं। मैं यहां बताना चाहता हूं कि हमारा भारत वर्ा ऐसा प्रधान देश है और हमने सर्वदा मुसलमानों की कद्र की है। भारत सरकार की कोई भी पार्टी आई है, उन्होंने मुसलमानों की कद्र की है। हमने कभी भी मुसलमानों का निरादर नहीं किया है। इसलिए रिजर्वेशन आपने मांग लिया तो लगेगा कि वह छोटी जाति हो गई, कमजोर हो गई। हम तो हिन्दू और मुसलमान को बराबर का सगा भाई मानकर चलते हैं। रिजर्वेशन से यदि लोक सभा में आ गये या विधान सभा में आ गये तो इस रिजर्वेशन से एक प्रकार का छोटापन नजर आता है वर्ना आज तो देश में झगड़े हो रहे हैं। हर आदमी चाहता है कि उसे रिजर्वेशन दिया जाये। आज तो ब्राहमण भी कह रहे हैं कि वे अल्पमत में हैं, हिन्दू भी अल्पमत में आ रहे हैं। रिजर्वेशन तो उसे मिलता है जो कमजोर हो, जो पढ़ा-लिखा नहीं हो, जो धनवान नहीं हो, बराबर का नहीं हो।

हमारे संविधान निर्माताओं ने रिजर्वेशन दस वर्ा के लिए किया था, फिर इसे बढ़ाकर दस वर्ा के लिए और कर दिया। यह रिजर्वेशन का मामला बढ़ता ही जा रहा है। हमने यह कहा कि आर्थिक आधार पर जो जाति कमजोर है, उसे रिजर्वेशन एक बार दिया जाना चाहिए, बार-बार नहीं दिया जाना चाहिए। मान लीजिए कि किसी एससी या एसटी के घर में चार लड़के पैदा हुए हैं तो चारों को रिजर्वेशन दिया गया और वे चारों आईएएस बन जाये और दूसरी जाति के लोग नौकरी के लिए तरसते रहें। मैं समझता हूं कि यह स्थिति अत्यंत गंभीर होगी कि एक तरफ तो एक जाति के लोग बेरोजगार होकर बैठे रहें और दूसरी तरफ रिजर्वेशन के आधार पर दूसरी जाति के लोग आगे बढ़ते चले जाएं। इसलिए मेरा ई.अहमद साहब से निवेदन है कि वह इस प्रस्ताव को वापस लें।

इस देश में स्वतंत्र भारत में लोग मुसलमानों की कद्र कर रहे हैं और आगे भी कद्र करते रहेंगे। कोई सी पार्टी आये, हम मुसलमानों को बराबर का अपना भाई मानकर चलते हैं, इसलिए वह आगे भी इस प्रकार का प्रस्ताव नहीं लाएंगे, ऐसा मेरा उनसे अनुरोध है। उन्होंने बहुत मेहनत करके, काफी सारे कुटेशंस देकर, आज डेढ़-दो घंटे अपने पक्ष में तर्क दिये हैं और पिछले सत्र से वह इस पक्ष में तर्क देते आ रहे हैं। उन्होंने अपनी जाति के लिए वकालत की है, उन्होंने इस संबंध में काफी अध्ययन किया है, इसके लिए मैं उन्हें धन्यवाद दे रहा हूं लेकिन मेरी उनसे यह प्रार्थना है कि वह इस प्रकार का प्रस्ताव नहीं लाएं। इसलिए चाहे तो यह मान लीजिए कि मैं इसका विरोध कर रहा हूं लेकिन मैं विरोध भी नहीं कर रहा हूं। लेकिन मैं इसका समर्थन करने के लिए भी अपने आपको :ø0;असमर्थ पाता हूं। मेरी उनसे यही प्रार्थना है कि इस देश में इस प्रकार का प्रस्ताव नहीं लाना चाहिए।

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THE MINISTER OF STATE OF THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (SHRIMATI MANEKA GANDHI): Mr. Chairman, Sir, hon. Member Shri E. Ahamed has sought to bring forward a Resolution to make provision for reservation in appointments and posts in services and for admission into educational institutions in favour of socially and educationally Backwardlasses including Muslims. He has proposed that such reservation should be in accordance with proportion of their population notwithstanding anything contained in any judgement of any Court of law to the contrary including ceiling on percentage of reservation.

In this context, I would like to draw the attention of the House to the provision made in clause 4 of article 16 of the Constitution which enables the State to make provision for the reservation for appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. The government of India, as well as several State Governments, have provided for reservation for the Other Backward Classes (OBCs) as per provision under this article.

Clause 4 of article 15 of the Constitution enables the State for making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. Several States have provided reservation in the educational institutions as per provision under this article.

As the hon. Members are aware, hon. Supreme Court, in *Indira Sawhney vs. Union of India* case (Mandal case), has ruled that the reservations contemplated in Clause (4) of article 16 should not exceed 50 per cent. The Supreme Court also added that :

> "While 50 per cent shall be the rule, it is necessary not to put out of consideration certain extraordinary situations inherent in the great diversity of this country and the people. It might happen that in far-flung, in remote areas the population inhabiting those areas might, on account of their being out of mainstream of national life and in view of the conditions peculiar to and characteristic of them need to be treated in a different way, some relaxation in this strict rule may become imperative. In doing so, extreme caution is to be exercised and a special case made out."

In the above-mentioned case, the Supreme Court has further observed that :

> "Clause (4) speaks of adequate representation and not proportionate representation. 'Adequate representation' cannot be read as 'proportionate representation'."

The second Backward Classes Commission (Mandal Commission) identified Other Backward Classes not only

among the Hindus but also among non-Hindus using the following criteria :

i. All untouchables converted to any non-Hindu religion; and
ii. Such occupational communities which are known by the name of their traditional hereditary occupations and whose Hindu counterparts have been included in the list of Hindu OBCs.

The OBCs common to the Mandal Commission List as well as the lists prepared by the State Governments have been included in the common lists of OBCs for the purpose of reservation in civil posts and services under the Government of India. The Common Lists as also the State Governments' lists also contain communities belonging to the Minorities, including Muslims.

The proposed proportionate representation of OBCs may not be desirable due to the following reasons:

a. Caste continues to be the most divisive factor of our society. Irrespective of its importance or relevance in determining social status of a person, defining his social interactions and deciding his political affiliations, it will be prudent not to let it acquire a legal validity.
b. In the Constitution of India, one comes across specific mention about protection to be given to the "educationally and socially backward classes", "backward classes" and "weaker sections". However, "caste" is referred to in the Constitution only as a ground on which discrimination of any nature is to be avoided. Caste-based census will categorise population into OBCs, which comprise certain castes ignoring thereby the criteria of social, educational or economic backwardness. This will not be in conformity with the secular spirit of the Constitution.
c. At present enumeration in Census is confined to Scheduled Castes and Scheduled Tribes only. In case individual caste-wise Census is carried out, it will amount to quantifying population on the basis of caste. This will pre-suppose a precise definition of 'caste' which is understood both by the officials doing the census work as well as the responding public. This is very difficult to achieve particularly as caste includes sub-castes and, at times, sub-sub-castes. The number of castes is so large that this would make census work very complicated.

Article 46 of the Constitution requires the State to promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and also to protect them from social injustice and all forms of exploitation. Several programmes for provision of scholarships, pre-examination coaching and hostels for the students belonging to the weaker sections have been launched by the Ministry of Social Justice and Empowerment for their educational advancement. Further, non-government organisations like Maulana Azad Educational Foundation, Ambedkar Foundation etc. are also being assisted by the Government for taking up schemes for helping the weaker sections. Maulana Azad Educational Foundation, in particular, has sanctioned grants of over Rs. 45.64 crore to 332 NGOs all over the country for various activities aimed at the educational advancement of minorities. In fact, this is a very good Foundation. Not one of these 332 NGOs have been doing less than excellent, one hundred per cent work.

Some of our Wakfs have been encouraged to start ITIs, polytechnics and schools in the last two years. Apex level corporations, including the National Minorities Development and Finance Corporation and the National Backward Classes Finance and Development Corporation have been set up specifically to assist the minorities and the weaker sections in their economic development. National Commissions for Scheduled Castes and Scheduled Tribes, Minorities and Backward Classes have been set up to safeguard their interests.

My Ministry is of the view that the problems faced by the backward classes and minorities can be solved by assisting them for pursuing better education, vocational and technical education, and for taking up economically viable occupations. Development of weaker sections and minorities through reservation in services and educational institutions in proportion to the population as proposed in the Resolution will lead to fragmentation of the society and will be against the philosophy adopted under the Constitution for establishing a secular India with equal rights for all.

Before I submit my plea, I would like to thank hon. Members for taking an active part in the discussion. I would like to thank Dr. Raghunvansh Prasad Singh, the hon. Member, for asking for the backward sections and minorities to be included in the List of OBCs and that for notifying SCs, we have to have a stringent procedure which has to be complied with. Shri Bal Krishna Chauhan has highlighted the need for the creamy layer. We have already defined the creamy layer amongst the OBCs as per the direction of the Supreme Court. Shri Anadi Sahu has highlighted the need for modernisation and liberalisation of education for Muslims in madrasas, which the Maulana Azad Educational Foundation and other foundations in the Ministry are doing. The Ministry of Human Resource Development has also specific schemes for this process of modernisation. However, more efforts on the community would help accelerate this process. Shri Girdhari Lal Bhargava has pointed out that the fruits of reservation should not be enjoyed by a few families alone. It is to preclude such things from happening that the concept of creamy layer has been introduced.

In the end, I would like to say that in view of the reasons mentioned, the Private Members Resolution moved by Shri E. Ahamed may not be passed by this august House.

SHRI E. AHAMED: Mr. Chairman, I moved this Resolution with the best of intention taking into account the realities prevailing in this country. As I have already stated, it is a multi-ethnic, multi-religious and multi-lingual country where a substantial size of population has been suffering for want of job facilities and other things. When I mentioned that the reservation should be given, hon. Members − I am very much thankful to them − suggested that educational system should be improved and modernised and more education should be given. In my Resolution also, I have mentioned about it. The reservation should be given in educational institutions because many of our boys are denied admissions. In Kerala, we made an example. Muslims have adopted a slogan `either educate or perish'. Where do minority have the facility? We do not have the facility. That is why, while speaking on this Resolution, Shri Anadi Sahu also mentioned about the Resolution. When this Resolution is rejected or withdrawn, that part also goes away.

The hon. Minister was kind enough to mention about Maulana Azad Educational Foundation's and others' activities. I would say that these are quite insufficient, taking into account the magnitude of the responsibility to bring the minorities in educational field.

My learned friend, Shri Anadi Sahu, referred to me as a 'cartographer'. 'Cartographer' means a 'person who does imaginary things'. Who is a 'cartographer'?

SHRIMATI MANEKA GANDHI: 'Cartographer' means 'a person who prepares maps', and is not 'a person who does imaginary things'.

SHRI E. AHAMED : According to me, my hon. friend is a 'cartographer' because he is not even prepared to accept the reality what is there in the Mandal Commission report. He says that it was a retrograde step. But that is the reality, and the whole country has accepted it. It is now put in practice, and it is being implemented now. But he says that it was a retrograde step. I am not a 'cartographer' because I am not doing it especially not any imaginary work. I am taking into account the reality; we cannot just close our eyes to the reality.

On the one hand, we say that we must improve educational standards of minority, and on the other hand, we do not have educational facilities for the children of Muslims and other minorities. I have mentioned about other minorities in my earlier speech. I particularly mentioned about Muslims because Muslims are the second largest minority community not only in this country but also in the world. India is proud of the fact that it has the second largest Islamic population. The credit even does not go to our neighbours -- Bangladesh comes in the third or the fourth place; Pakistan comes in the fourth or the fifth place. The Islamic population in India is the second largest after Indonesia. We are going to all the international forums and saying that India has the second largest Islamic population. I have also argued for this country. As a member of the Indian Delegation, I have represented India six times continuously in the United Nations. But what is happening back at our home? We do not have proper representation. 'We' means 'Muslims'; I am speaking about the largest minority. They do not have the facilities; they do not have proper representation. I have also mentioned about discrimination in various fields.

Why have I brought this Resolution? It is only to urge the Government to bring a suitable legislation. There is an observation by the Supreme Court, but I do not think that its observation is sacrosanct in every respect. The Supreme Court has put a ceiling on the reservation, though the Mandal Commission, in 1980, has identified 52 per cent of population for the purposes of reservation. Despite an increase in their population, the Court has put the ceiling at 50 per cent and not more than that. Twenty-two-and-a-half per cent reservation is for the SCs/STs, and another twenty-seven per cent reservation is for the backward classes. I brought this Resolution in this august House because Parliament is the only competent authority to amend the Constitution.

I mentioned about the difficulties, and I have given the prenatal history of article 16 (4), but it has been interpreted in a different way. What had been interpreted by Justice Kania and Justice Patanjali Sastri is not what is now being interpreted by the present judges. I do agree that it may change again and again.

I was very disappointed about one thing. The hon. Minister said that they are doing this and that. For the sake of the minorities, certain amount has been set apart by the Govt. According to me, it is quite insufficient. Of course, the Minister may be spending whatever money has been allocated to the Ministry, but there should at least be an assurance from the Government that it will take care of the second largest segment of population of the country.

For the last 50 years, this minority community has been backing all the Government. They became a part and parcel of this country; they have integrated into the mainstream of this country. They are not looking anywhere else. This is our country. We were born here, we are living here, and the minorities will die here. But that minority

community, that section of people, should be given at least some assurance. If somebody thinks of this Resolution as 'anti-secular', I not only oppose it, but I would say that they have some ulterior motives. When we tell this Government that minority want such and such a thing, is it anti-secular? When we ask the Government, we consider it as a matter of our right. We should be given proper representation because it is the minorities' legitimate constitutional right. They should be heard and their views should be given due consideration.

Like my friend, Shri Anadi Sahu, I have also learnt a lot of their problems . He would be happy if two per cent reservation is given to the *Brahmins*. I would like to narrate a small story here. A man eats more than what he could digest, and tells his friend about the trouble that he has because of his over eating.

Then his friend advises him to push two fingers down his throat so that he could vomit and he could feel better. The first friend then says, "If there is any possibility of pushing two fingers down my throat, I would have had an extra banana." That is the position now. Every opportunity is being taken up by a section of the people and unsuspectd all positions. Even then Shri Anadi Sahu says that he would be happy if two per cent more is given to Brahmin!

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Sir, I am being misinterpreted. It was not that.

SHRI E. AHAMED (MANJERI): I say that we must see the reality. What is the real position here? My close friend for the last four Lok Sabhas Shri Girdhari Lal Bhargava has mentioned that he was not opposed to my resolutions because his mind would not allow him to oppose. He may not be supporting it. Either he is correct on that also. He cannot oppose it because our integration is too strong. But not just limited to marriages, festivals, customs and other customary things. We are all together. But when you as a member majority community go to college, you get admission; when you apply for jobs, you get those positions; and you are treated well and I as a Muslim discriminated against. That is the actual position.

When you take me as your brother, you must take me as a real brother and not a namesake brother. When you take me as a brother, you become the elder brother and I become the younger one. So, I have every right to ask you to give me my right. That is precisely what I have done here. The hon. Minister should have given some assurance to the educationally and socially backward classes including Muslims and other minorities. Their grievances should be considered wherever possible. I hope the hon. Minister would extend that gesture of goodwill so that I can withdraw my Resolution. I have nothing against withdrawing my Resolution. The Minister has her credentials in politics and she is representing the Government here. She can consider these things.

SHRIMATI MANEKA GANDHI: Sir, I deeply appreciate the concern of the hon. Member. In the final analysis, I do believe that we should concentrate on educational and economic upliftment of the backward classes including those amongst Muslims. If it means increasing the amount of money, I am sure that a case can be made out for that. Since I became the Minister for this particular Ministry. I had taken great pain and we have increased money to NGDS assisted by Foundation to almost double of what it was. Of these 332 institutions that have been put up, during my tenure we have put up about 200 of them. हमारी कोशिश यह है कि जल्दी से जल्दी माइनौरटीज को इसमें डालना चाहिये। I would appeal to the hon. Member to withdraw his Resolution.

SHRI E. AHAMED : Mr. Chairman, Sir, half of my demand, that is on education, has been considered. Only services are left now. Anyway, as a gesture of goodwill to the hon. Minister, I withdraw my Resolution.

MR. CHAIRMAN: Is it the pleasure of the House that the Resolution moved by the hon. Member be withdrawn?

The Resolution was, by leave, withdrawn.

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